IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 481 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 25/02/2005 in WP NO: 2194 OF 2005 on the file of the High Court.)

Between:

N. Hari Babu S/o N. Ramarao, aged 43 years,
EM-M&S Dept No.336, R/o Tilaknagar, Nallakunta, Hyderabad

... APPELLANT

AND

The Additional General Manager/HR & TA Human Resources Managerment, Bharat Heavey Electricals Limited, Ramachandrapuram, Hyderabad

...RESPONDENT

Counsel for the Appellant: MR.NOUSHAD ALI

Counsel for the Respondent: MR.S.V.BHATT

The Court made the following :

THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT APPEAL No.481 OF 2005

O R D E R: (Per Hon'ble Sri Justice L.Narasimha Reddy)

This writ appeal is filed assailing the order, dated 25.02.2005, in W.P.No.2194 of 2005. The writ petitioner therein is the appellant.

The appellant was appointed as an Artisan Grade-IV (Fitter) in Bharat Heavy Electricals Limited, the respondent herein, on 4.5.1987, against a vacancy reserved in favour of Scheduled Tribes. The respondent received a complaint about a decade ago, wherein it was alleged that the appellant does not belong to Scheduled Tribe, and that the caste certificate produced by him is incorrect. Departmental proceedings were initiated against the appellant, and ultimately, through order, dated 16.9.2004, he was dismissed from service. He challenged the said order by filing W.P.No.2194 of 2005. One of the grounds urged by him was that the order of dismissal is based upon the orders passed by the District Collector, Hyderabad, in proceedings dated 1.9.2004, canceling the caste certificate, and since the operation of the said order is suspended by this court, there did not exist any justification for the respondent to dismiss him from service. The learned Single Judge dismissed the writ petition.

Sri Noushad Ali, learned counsel for the appellant, submits that the very basis for the respondent to dismiss the appellant from service, is the proceedings dated 1.9.2004 passed by the District Collector, Hyderabad, and once it was suspended by this Court, through its order dated 30.12.2004 in W.A.No.2189 of 2004, the appellant ought to have been continued in service. He submits that the respondent should have waited till the appellant availed the remedy of appeal, against the order of cancellation of caste certificate, under the provisions of the Andhra Pradesh (S.C, S.T & B.Cs) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act"). He relies upon certain precedents, in support of his contention that the social

status of an individual, once certified by a competent authority, cannot be set at naught, on the basis of representations made by associations.

Sri S.V.Bhatt, learned Standing Counsel for the respondent, on the other hand, submits that the appellant claimed benefit of reservation, on the strength of a caste certificate, issued by the Deputy Collector, Warangal, in his personal capacity, and once it was found to be invalid, the respondent was left with no alternative, except to terminate the services of the appellant. He further contends that, as on the date of the order of dismissal, the proceedings dated 1.9.2004, issued by the District Collector, Hyderabad, canceling the caste certificate of the appellant were very much in force, and it was nearly three months thereafter, that an order of suspension was granted by this Court in W.A.No.2189 of 2004. On the basis of this submission, the learned Standing Counsel states that no illegality can be said to have crept into the order, impugned in the writ petition.

The appellant was employed in the respondent organization, way back in the year 1987, against a reserved vacancy. The basis for the social status claimed by the appellant was a certificate issued by the Deputy Collector, Warangal. On receiving certain complaints about the social status of the appellant, the respondent had undertaken verification. During this time, the appellant obtained a caste certificate, from the Mandal Revenue Officer, Amberpet, Hyderabad. The respondent, in turn, has taken up the matter with the District Collector, Hyderabad. On a consideration of the entire material before him, the District Collector, Hyderabad, issued proceedings dated 1.9.2004, canceling the caste certificate issued to the appellant, by the Mandal Revenue Officer, Amberpet.

The appellant availed the remedy of appeal before the Government, against the order of cancellation dated 1.9.2004. Since no interim order was passed therein by the appellate authority, he filed W.P.No.22756 of 2004. No relief was granted therein. Hence, he filed W.A.No.2189 of 2004, and through order dated 30.12.2004, a Division Bench of this Court, passed an order, directing that the proceedings dated 1.9.2004, issued by the District Collector, Hyderabad, shall remain suspended till the disposal of the appeal before the Government. In the mean while, the respondent

terminated the services of the appellant, through order dated 16.9.2004.

Though it is urged by the learned counsel for the appellant that the respondent passed the impugned order with utmost haste, we are not impressed by the same. The record discloses that the respondent followed the procedure meticulously, and it is only after the competent authority under the Act passed an order, canceling the caste certificate of the appellant, that it passed the order of dismissal. Further, the appellant did not choose to implead the respondent herein in W.P.No.22756 of 2004, or in W.A.No.2189 of 2004, for the reasons best known to him. The respondent was not a party in the proceedings that were initiated by the appellant, be it before the appellate authority, or before this Court. At any rate, the order suspending the proceedings of the District Collector, Hyderabad, came to be passed three months, after the appellant was dismissed from service. Therefore, it cannot be said that the order of dismissal is either passed without any basis, or that it was in contravention of the orders passed by this Court.

One contention, urged by the respondent and that appealed to the learned Single Judge, was that the appellant was employed on the strength of a caste certificate, issued by the Deputy Collector, Warangal, and that the proceedings before the District Collector, Hyderabad, or the appellate authority under the Act, do not relate to the same. It was urged that the proceedings of the District Collector, Hyderabad, canceling the caste certificate of the appellant, did not constitute the basis for dismissal of the appellant. This contention appears to be partly correct. A perusal of the order of dismissal discloses that having referred to the caste certificate, issued to the appellant by the Deputy Collector, Warangal, the respondent made an extensive reference to the proceedings of the District Collector, Hyderabad, dated 1.9.2004. The order of dismissal discloses that the proceedings before the District Collector constituted substantially, if not the exclusive basis.

It is true that as on the date of the order of dismissal, there was no interim or final order, suspending or staying the cancellation of the caste certificate of the appellant. However, once this Court had suspended the operation of the order of cancellation of the caste certificate, the ordinary consequences flowing from it, have to be given effect to. As of now, the order of suspension, passed by this Court in

W.A.No.2189 of 2004, has no other valid purpose, except in relation to the employment of the appellant. As observed earlier, it is the appellant that has to blame himself for the present state of affairs. Had he impleaded the respondent herein in the W.P.No.22756 of 2004 and in W.A.No.2189 of 2004, the occasion to initiate this round of litigation would have been obviated.

The appellant had availed the statutory remedy of appeal and this Court suspended the operation of the order, dated 1.9.2004 passed by the District Collector, Hyderabad. The appellant has been in service since last 17 years. The dismissal would certainly result in deprivation of livelihood. It is not a case where he has been dismissed from service on any ground of misconduct. Except the order of cancellation of the caste certificate, passed by the District Collector, Hyderabad, no other strong circumstance is stated in the order of dismissal. In that view of the matter, we are of the view that the appellant deserves to be continued in service, till the disposal of the appeal by the appellate authority under the Act.

Hence, we allow the writ appeal and set aside the order passed in the writ petition. The writ petition is allowed, directing that the order dated 16.9.2004, passed by the respondent, dismissing the petitioner from service, shall remain in abeyance, till the Government of A.P., represented by its Additional Secretary, Tribal Welfare Department, before whom the appeal preferred by the appellant herein is pending, disposes of the appeal. The appellant shall be reinstated into service forthwith. The appellate authority, to whom a copy of this order shall be marked, is directed to dispose of the appeal, as early as possible and not later than three months, from the date of receipt of a copy of this order. In case, the appeal is dismissed, it shall not be necessary for the respondent to pass any further orders, and the order dated 16.9.2004 shall become operative. On the other hand, if the appeal is allowed, or disposed of, in any other manner, the further action to be taken by the respondent herein, shall depend on the outcome of the same. The respondent shall be entitled to put forth its case and place necessary material before the appellate authority and that latter shall issue notice of hearing to the respondent, whenever the appeal is taken up for hearing. There shall be no order as to costs.

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(T.MEENA KUMARI, J)

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(L.NARASIMHA REDDY, J)

Dt. 26–04-2005.

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Issue C.C.today.

To

1) The Additional General Manager/HR & TA Human

Resources Managerment, Bharat Heavey Electricals

Limited, Ramachandrapuram, Hyderabad.

2) The District Collector, Hyderabad.

3) The Additional Secretary to Government, Tribal Welfare

Department, Secretariat, Hyderabad.

4) Two C.D. copies.